dated October 27, 1994, and Boeing Service Bulletin 757–54–0036, dated May 14, 1998, as applicable, in accordance with those service bulletins.

(c) If any damage to airplane structure is found during the accomplishment of the modification required by paragraph (a) of this AD; and the service bulletin specifies to contact Boeing for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

**Alternative Methods of Compliance**

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

**Special Flight Permits**

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 1, 2000.

**Donald L. Riggin,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 00–14315 Filed 6–6–00; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Parts 701, 724, 773, 774, 778, 842, 843, and 846

**RIN 1029–AB94**

## Application and Permit Information Requirements; Permit Eligibility; Definition of Ownership and Control; the Applicant/Violator System; Alternative Enforcement Actions

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; reopening and extension of comment period.

**SUMMARY:** On December 21, 1998 (63 FR 70580), we, the Office of Surface Mining (OSM), proposed a rule to amend our permanent program regulations for surface coal mining operations under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201, *et seq.*, as amended (SMCRA or the Act). We are reopening the comment period for the proposed rule in light of a judicial decision in a case decided after the close of the comment period. The comment period was originally scheduled to close on February 19, 1999, but was subsequently extended to March 25, 1999 (64 FR 8763; Feb. 23, 1999), then to April 15, 1999 (64 FR 15322; March 31, 1999), and ultimately to May 10, 1999 (64 FR 23811; May 4, 1999). Shortly thereafter, on May 28, 1999, the U.S. Court of Appeals for the District of Columbia Circuit handed down a decision in *National Mining Ass'n* v. *U.S. Dept. of the Interior,* 177 F.3d 1 (D.C. Cir. 1999) (*NMA* v. *DOI II*). Because we incorporated certain provisions and concepts into our December 21, 1998 proposed rule, which were later invalidated by the court, we feel it advisable to obtain input from the public on the effects of the appeals court's decision on our proposed rule. By this notice, we are reopening and extending the comment period for an additional 30 days to seek comments on the effects of the court decision on our proposed rule so that we can ensure that our final rule is consistent with the *NMA* v. *DOI II* decision.

**DATES:** We will accept written comments until 5 p.m., Eastern time on July 7, 2000. We will consider only those comments received within the allowed time period.

**ADDRESSES:** You may mail or hand-deliver comments to the Office of Surface Mining, Administrative Record Room 101, 1951 Constitution Avenue, NW., Washington, DC, 20240. You may also submit comments to OSM via the Internet at: osmrules@osmre.gov. Comments sent via the Internet should be in an ASCII, Word, or WordPerfect file, and you should avoid using special characters and any form of encryption. Please also include ''Attn: RIN 1029–AB94'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (202) 208–2847.

**FOR FURTHER INFORMATION CONTACT:** Stephen J. McEntegart, Office of Surface Mining, 1951 Constitution Avenue, NW., Washington, DC, 20240. Telephone: (202) 208–2968; e-mail: smceteg@osmre.gov.

**SUPPLEMENTARY INFORMATION**

### I. Public Comment Procedures

Written comments submitted by mail, electronically, or in person, should be specific, confined to issues pertinent to this reopening, and explain the bases for the comments. Please submit three copies of your comments if possible. We must stress that we will consider only comments which are germane to the effects of the *NMA* v. *DOI II* decision on our December 21, 1998 proposed rule: conversely, we will not consider comments which do not pertain to the effects of the court decision and which could have been submitted during the previous comment periods. All of the comments we received thus far are part of the rulemaking record, and we will consider both those comments and comments received under the new comment period associated with this notice before issuing a final rule. Therefore, commenters should not resubmit earlier comments.

We are specifying a 30 day deadline for comments, which we believe is appropriate because of the limited nature of this reopening; the fact that the pertinent appeals court's rulings are, for the most part, subject to straightforward interpretation; the fact that we previously extended and reopened the comment period serial times for the initial proposed rule; and our desire to expedite promulgation of a final rule. In view of the above considerations, we will not extend the comment period beyond 30 days.

### II. Summary of *NMa* v. *DOI II* as it Affects our December 21, 1998 Proposed Rule

In June 1997, NMA filed suit in the U.S. District Court for the District of Columbia, challenging the validity of our April 21, 1997, interim final rule (IFR) (62 FR 19450) on broad grounds. On June 15, 1998, the district court issued a decision upholding the IFR in its entirety. *National Mining Ass'n* v. *Babbitt,* No. 97–1418 (AER) (D.D.C. June 15, 1998).

On May 28, 1999, the U.S. Court of Appeals for the District of Columbia Circuit issued its decision in NMA's appeal of the district court's ruling. *National Mining Ass'n.* v. *U.S. Dep't of the interior,* 177 F.3d 1 (D.C. Cir. 1999) (*NMA* v. *DOI II*). The court upheld several provisions of the IFR, but invalidated others. Three of the court's holding invalidating provisions of the IFR are pertinent to this reopening because we incorporated the invalidated provisions and/or underlying concepts into the proposed rule. Since our final rule must be consistent with *NMA* v. *DOI II,* we invite your comments on

how these three holdings affect our proposed rule. These three holdings are described below.

First, the court held that ''[f]or violations of an operation that the applicant 'has controlled' but no longer does, * * * the Congress authorized permit-blocking only if there is 'a demonstrated pattern of willful violations' '' under section 510(c) of SMCRA. *Id.* at 5. In other words, if an applicant severs its ownership or control relationship to an operation with a current violation, OSM, in general, may not consider that violation in making a permit eligibility decision under section 510(c) of the Act. Stated differently, in addition to the violation being current and ongoing, the applicant must also own or control the operation with a violation at the time of application; if the ownership or control relationship has been terminated, OSM may not deny a permit (absent a pattern of willful violations), even if the violation remains current and ongoing. *NMA* v. *DOI II*, 177 F.3d at 5. OSM may consider such past ownership or control of operations with violations only in determining whether there has been a ''demonstrated pattern of willful violations'' warranting permanent permit ineligibility under section510(c).

This holding affects 773.15(b)(3) and 773.16(a) of our proposed rule; therefore, we invite your comments on the effect of the court's ruling on these provisions.

Second, the court found that the IFR's provision requiring permit denials based on *indirect* ownership or control of operations with violations is impermissibly retroactive because our 1988 ownership and control rule imposed a ' ''new disability,' permit ineligibility, based on 'transactions or considerations already past. . . .' '' *Id.* at 8. As such, the court held that the IFR is retroactive ''insofar as it block [*sic*] permits based on transactions (violations and control) antedating November 2, 1988, the [1988] Ownership and Control Rule's effective date.'' *Id.*

However, the court explained that the IFR is not retroactive to the extent it allows permit denials when an applicant acquires control of an operation with an ongoing, pre-rule violation on or after the effective date of the 1988 ownership and control rule. *Id.* at n.12. This is so because one of the relevant transactions—assumption of control—will have occurred on or after November 2, 1988; as such, as of November 2, 1988, the applicant would be on notice that this type of transaction, which post-dates the effective date of the 1988 rule, could affect his or her eligibility to receive a permit.

This holding affects sections 773.15(b)(3) and 773.16(a) of our proposed rule; therefore, we invite your comments on the effect of the court's ruling on these provisions.

Finally, with regard to the IFR's suspension and rescission provisions relative to improvidently issued permits, the court agreed with OSM that section 201(c) of SMCRA, 30 U.S.C. 1211(c), expressly authorizes OSM to suspend or rescind improvidently issued permits. In addition to that express authority, the court also found that OSM retained ''implied'' authority to suspend or rescind improvidently issued permits ''because of its express authority to deny permits in the first instance.'' *Id.* at 9. However, the court decided that OSM may only order cessation of State-permitted operations pursuant to the procedures established under section 521 of SMCRA, 30 U.S.C. 1271. Specifically, OSM may order immediate cessation of State-permitted operations if those operations pose an ''imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm . . .'' SMCRA § 521(a)(2), 30 U.S.C. 1271(a)(2). Absent these circumstances, and after OSM complies with the ten-day notice procedure contained in 30 CFR 843.21(c), OSM may order cessation of a State-permitted operation only if it: (1) Provides a notice of violation to the permittee or his agent; (2) establishes an abatement period; (3) provides opportunity for a public hearing and (4) makes a written finding that abatement of the violation has not occurred within the abatement period. *Id.* at 9–10; SMCRA § 521(a)(3), 30 U.S.C. 1271(a)(3). This holding affects section 843.21(d) of our proposed rule; therefore, we invite your comments on the effect of the court's ruling on these provisions.

The court's holdings in the rest of the *NMA* v. *DOI II* litigation do not affect our proposed rule because either; (1) OSM prevailed on the particular issued; or (2) the issue has become moot in that our proposal does not contain a similar provision. The court decision is available from two commercial legal research services (Lexis and Westlaw), as well as from the United States Court of Appeals for the District of Columbia Circuit's website (Internet address: http://www.cadc.uscourt.gov). For your convenience, we are posting a copy of the court's decision on our website at: http//www.osmre.gov. We will also be happy to mail or fax you a hard copy of the decision at your request; please address requests to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 1, 2000.

**Kathrine L. Henry,**

*Acting Director, Office of Surface Mining Reclamation and Enforcement.*

[FR Doc. 00–14355 Filed 6–6–00; 8:45 am]

**BILLING CODE 4310–05–M**

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## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 906

**[SPATS No. CO–032–FOR]**

## Colorado Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Colorado regulatory program (hereinafter, the ''Colorado program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Colorado proposes revisions to rules concerning definitions; permit application requirements; comment period for revisions; requirements for permit approval or denial; and performance standards for sedimentation ponds, discharge structures, impoundments, stream buffer zones, coal exploration, and coal processing plants and support facilities not located at or near the mine site or not within the permit area for the mine. Colorado intends to revise its program to be consistent with the corresponding Federal regulations, clarify ambiguities, and improve operational efficiency.

**DATES:** We will accept written comments on this amendment until 4 p.m., m.d.t., July 7, 2000. If requested, we will hold a public hearing on the amendment on July 3, 2000. We will accept requests to speak until 4 p.m., m.d.t., on June 22, 2000.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to James F. Fulton at the address listed below.

You may review copies of the Colorado program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive